

SPIKES
Appl. No. 10/509,083
March 3, 2008

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Figs. 1 and 3. These sheets (1/10 and 3/10), which includes Figs. 1, 3a, 3b, 3c and 3d replace the original sheets including Figs. 1 and 3.

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REMARKS/ARGUMENTS

Claims 1-23, 27 and 28 stand allowed, with claims 24 and 25 rejected in the outstanding Official Action. Claims 24 and 25 have been amended and therefore claims 1-25, 27 and 28 remain in this application.

On page 2 of the Final Rejection, the Examiner indicates that the previous restriction requirements have been withdrawn. This withdrawal is very much appreciated.

Claims 24 and 25 stand rejected under 35 USC §112 (second paragraph) as being indefinite for lacking literal *in haec verba* antecedent basis for “said wettable surface” and “said substantially non-wettable surface.” The Court of Appeals for the Federal Circuit has consistently held that there is no requirement for *in haec verba* or literal antecedent basis for claim terms. Moreover, as noted in the Manual of Patent Examining Procedure (MPEP) Section 2173.05(e), “inherent components of elements recited have antecedent basis in the recitation of the components themselves. For example, the limitation ‘the outer surface of said sphere’ would not require an antecedent recitation that the sphere has an outer surface.” Accordingly, Applicant believes that with respect to the phrases “said wettable surface” and “said substantially non-wettable surface,” claims 24 and 25 have proper antecedent basis in the language of claim 23, from which they directly or indirectly depend.

However, in view of the Examiner’s indication of allowability of claims 24 and 25 if amended to overcome the “rejections under 35 U.S.C.112 112, 2nd paragraph,” Applicant has amended claims 24 and 25 to instead recite “fluid entrainment” surface and “fluid slippage surface” which phrases do have literal antecedent basis in claim 23, from which they directly or indirectly depend. The Examiner’s indication of allowable subject matter in claims 24 and 25 is

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very much appreciated and in view of the above amendment, these claims are believed to be in condition for allowance.

The Examiner also indicates that claims 1-23, 27 and 28 are allowed and this indication is appreciated.

Although not mentioned in the outstanding Official Action, Applicant noted a "Notice of Draftsperson's Patent Drawing Review" attached to the Official Action. Objections are raised with respect to Figures 1 and 3 and those figures have been corrected. Applicant encloses herewith replacement sheets 1/10 and 3/10 including a corrected Figure 1 and correctly labeled Figures 3a, 3b, 3c and 3d. The specification has been amended to correctly address the separate Figures 3a, 3b, 3c and 3d. In view of the submitted replacement sheets and specification amendments, there is believed to be no further basis for objection to the drawings.

Entry of the Amendment pursuant to Rule 116

Entry of the above amendment and replacement drawings pursuant to the provisions of Rule 116 is respectfully requested. With the exception of the alleged antecedent basis issue in claims 24 and 25, all claims in this application are either allowed or indicated as containing allowable subject matter.

The above amendment to claims 24 and 25 merely revises claims 24 and 25 to include literal antecedent basis for the terms objected to by the Examiner. Entry of these amendments does not raise any new issue requiring further consideration or search, does not add new matter to the application, does not add any new claims requiring further search and eliminates all issues for appeal. Additionally, it is noted that the replacement sheets responsive to the drawing correction requirement could not have been submitted at an earlier date, since the drawings were

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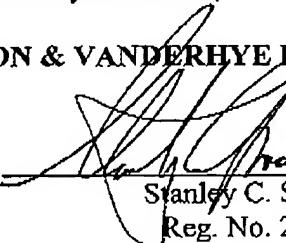
never previously objected to. Accordingly, entry of the above amendment and replacement sheets of drawings is respectfully requested pursuant to the provisions of Rule 116.

Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that claims 1-25, 27 and 28 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact applicant's undersigned representative.

The courtesy of a telephone confirmation that the application is in condition for allowance is respectfully requested (703-816-4128).

Respectfully submitted,

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